

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

In:
Lisa Wilson)
Debtor(s)) Case No.: 12-40828-399
) Chapter 13
v.)
)
IRS)
)
)

**DEBTOR'S SUGGESTION'S IN SUPPORT OF OBJECTION TO
CLAIM 2 OF THE IRS**

Debtor's plan provides: "Debtor shall send any tax refund received during the plan to the Trustee...." On March 28, 2012, this Court entered its Order of Confirmation. Having filed its proof of claim, Claim 2-1, in this cause on February 21, 2012, the Internal Revenue Service was bound by the terms of the Order of Confirmation and Debtor's plan.

On May 14, 2012, in violation of this Court's Order of Confirmation, the IRS offset Debtor's 2011 tax refund in the amount of \$1,219 and applied said funds to Debtor's 2003 unsecured liability. See Exhibit 1. On April 7, 2014, in violation of this Court's Order of Confirmation, the IRS offset Debtor's 2013 tax refund in the amount of \$729.15 and applied said funds to Debtor's 2012 liability. See Exhibit 2.

The IRS's non-compliance with this Court's Order of Confirmation has prejudiced Debtor. Had Debtor's 2011 tax refund been turned over to the Trustee for distribution according to Debtor's plan, said funds would have been paid on Debtor's secured or priority debt and not on the unsecured debt owed to the IRS for 2003. (Debtor's confirmed plan provides for 0% to be paid on unsecured debt.) Likewise, had Debtor's 2013 tax refund been turned over to the Trustee, such funds would have been paid to secured or priority creditors. The IRS's non-compliance with the Order of Confirmation causes Debtor's plan to be infeasible and should not be allowed.

In addition, the IRS's offset of Debtor's post-petition tax refund for a pre-petition obligation appears to have violated the automatic stay

protection. In Re Sexton, 508 BR 646, 662 (Bankr WD Va 2014); In re Vargas, 342 BR 762 (Bankr ND Ohio 2006).

WHEREFORE, for the foregoing reasons, the Debtor's Objection should be sustained.

/s/Ross Briggs #2709 #31633

Ross Briggs
Attorney At Law
4144 Lindell Ste 202
St Louis MO 63108
314-652-8922 Fax: 314-652-8202
r-briggs@sbcglobal.net

CERTIFICATE OF SERVICE:

By my signature above it is certified that a copy of the above was served by ECF system and/or by First Class Mail, this 18th day of April, 2017 upon the Chapter 13 Trustee and Jane Rund, Attorney for IRS.

/s/ Ross H. Briggs



Case #E-15036
Department of the Treasury
Internal Revenue Service
PO Box 621501
Atlanta, GA 30362-1501

102430.966408.0437.008 1 AT 0.374 641

USA L WILSON
10705 SAINT STEPHEN LN
SAINT ANN MO 63074-1614

430

Your 2011 Form 1040 overpayment was applied to tax you owe.

Amount due: \$2,436.86

We applied \$1,219.00 of your 2011 (Form 1040) overpayment to the amount you owe for 2003.

As a result, the amount you owe for 2003 is \$2,436.86.

Billing Summary

Overpayment for 2011	-\$1,219.00
Amount applied to tax owed for 2003	1,219.00
Remaining balance for 2003	2,436.86
Amount due immediately	\$2,436.86

What you need to do immediately

Pay immediately

Pay the amount due of \$2,436.86, to avoid additional penalty and interest charges. If you recently made a payment that's not reflected in the amount you owe, subtract your recent payment from the amount due. If this results in a credit, we'll send you a refund check.

Continued on back ...



LISA L WILSON
10705 SAINT STEPHEN LN
SAINT ANN MO 63074-1614

Notice CP49
Notice date May 14, 2012
Social Security number

- Make your check or money order payable to the United States Treasury.
- Write your Social Security number (), the tax year (2003), and the form number (1040) on your payment and any correspondence.

Amount Due

\$2,436.86

INTERNAL REVENUE SERVICE
KANSAS CITY, MO 64999-0204

Exhibit 1

511700238 RU MTS 30 0 200312 670 00000243686




Department of the Treasury
Internal Revenue Service
P.O. Box 621501
Atlanta, GA 30362-1501

091538.280410.4121.3553 1 AT 0.406 469


Notice	CP49
Tax Year	2013
Notice date	April 7, 2014
Social Security number	
To contact us	1-800-829-0922
Your Cailer ID	428042
Page 1 of 2	9H


LISA L WILSON
10705 SAINT STEPHEN LN
SAINT ANN MO 63074-1614

91538

Your 2013 Form 1040 overpayment was applied to tax you owe
Refund due: \$1,397.85

We applied \$729.15 of your 2013 (Form 1040) overpayment to the amount you owe for 2012.

As a result, you are due a refund of \$1,397.85.

Summary

Overpayment for 2013	-\$2,127.00
Amount applied to tax owed for 2012	729.15
Refund due	\$1,397.85

Continued on back...


IRS

LISA L WILSON
10705 SAINT STEPHEN LN
SAINT ANN MO 63074-1614

Notice	CP49
Notice date	April 7, 2014
Social Security number	

If your address has changed, please call 1-800-829-0922 or visit www.irs.gov.

Please check here if you've included any correspondence. Write your Social Security number (10 digits), the tax year (2012), and the form number (1040) on any correspondence.

a.m.
 p.m.

a.m.
 p.m.

Primary phone

Best time to call

Secondary phone

Best time to call

INTERNAL REVENUE SERVICE
P.O. BOX 621501
ATLANTA, GA 30362-1501



Exhibit 2